

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 2:15-cr-20329

v.

HONORABLE STEPHEN J. MURPHY, III

D-4 TORIONO HUMPHREY,

Defendant.

**OPINION AND ORDER DENYING  
DEFENDANT TORIONO HUMPHREY'S MOTION TO DISMISS [152]**

Defendant Toriono Humphrey is charged with conspiring to possess with intent to distribute controlled substances in violation of 21 U.S.C. §§ 846 and 841(a)(1). Humphrey filed an initial motion to dismiss on November 11, 2015. Mot., ECF No. 75. The Court found the motion moot after the Government filed a second superseding indictment on November 1, 2016. Order, ECF No. 150. Humphrey re-filed his motion on November 21, 2016. Mot., ECF No. 152.

Humphrey argues that the Court should dismiss the count as duplicitous; he contends it combines three separate offenses (conspiracy to possess and distribute heroin, marijuana, and cocaine) into one. See Mot., ECF No. 152.

The Court conducted a hearing on January 17, 2017, and stated that the Sixth Circuit has previously addressed—and rejected—Humphrey's argument: "A single conspiracy may have as its objective the distribution of two different drugs without rendering it duplicitous." *United States v. Dale*, 178 F.3d 429, 431 (6th Cir. 1999). In addition, the Court's instructions on the law will explain the offense to the jury, and the verdict form will separate the types of controlled substances to eliminate the risk of confusion or non-unanimity.

**ORDER**

**WHEREFORE**, it is hereby **ORDERED** that Defendant's Motion to Dismiss [152] is **DENIED**.

**SO ORDERED.**

s/Stephen J. Murphy, III  
STEPHEN J. MURPHY, III  
United States District Judge

Dated: January 18, 2017

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on January 18, 2017, by electronic and/or ordinary mail.

s/David P. Parker  
Case Manager